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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/323,765	06/01/1999	MARK D. SCOTT	259.006US1	9616

7590

01/22/2004

EXAMINER

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ART UNIT PAPER NUMBER

DATE MAILED: 01/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/323,765

Applicant(s)

SCOTT ET AL.

Examiner

Robert C. Hayes, Ph.D.

Art Unit

1647

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 28 July 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☒ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☒ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

Continuation of 9. Other (including any explanation in support of the above items):

For the third time, Appellant has failed to "overcome all reasons for noncompliance of which the appellant was notified" in Paper Nos: 24 (mailed 8/29/02) & 26 (mailed 1/24/03), which therefore may result in ABANDONMENT of this application. See MPEP 1206.

#3: Appellant confuses and mischaracterizes the record on pg 5 of the brief in stating "(claim 14 only) was refused [entry]". After final amtds are either entered, or they are not entered.

#5: Again, incorrect claims are recited on lines 7, 9, & 11 on pg 8 of brief (i.e., for issue #s:3, 4 & 5). See Final Office Action (paper no:16; mailed 10/3/01) & Advisory Action (paper no:20; mailed 2/15/02). E.G., no rejection under 37CFR 1.175@ or obv. d.p. remains.

Inconsistencies and contradictions remain throughout the brief for recited rejected claims (e.g., pgs 10 (lines 11, 15,20-21), 11 (lines 6,7), 17 (line 24), 18 (lines 5,7), 20 (lines 6-9), 21 (lines 1,14)). It is suggested that Appellant proof reads brief, or more appropriately, reduces reoccurring issues and problems by filing a RCE.

#6 & 7: Pg 9 fails to state what claims stand or fall together for 112, 2nd pp rejection, and why. Again, note that claims rejected CANNOT be "withdrawn from this Appeal"; especially as it relates to some, but not other rejections. Again, claim 8 not addressed as to whether it stands or falls, and why, on pg 11. Neither are claims 28 & 31 addressed as to whether they stand or fall, and why.

#8: No pgs 30-31 for claims 8-18 submitted, as required.


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